

1989 FEB -7 PM 3:10

HOUSE OF REPRESENTATIVES

I certify that the attached is a true and
correct copy of HR 37, which
was filed of record on JAN 10 1989
and referred to the committee on:

Ways & Means

Betty Murray

Chief Clerk of the House

By

[Signature]

J.R. No.

37

A JOINT RESOLUTION

1 proposing a constitutional amendment to prohibit the imposition of
2 both a corporate income tax and a franchise tax on the assets of
3 corporations.

4 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Article VIII of the Texas Constitution is amended
6 by adding Section 24 to read as follows:

7 Sec. 24. (a) This state may not impose at the same time:

8 (1) a tax on the profits or net incomes of
9 corporations; and

10 (2) a franchise tax on the assets of corporations.

11 (b) An Act of the legislature to enact a state tax on the
12 profits or net incomes of corporations is not valid if on the date
13 the tax takes effect a state franchise tax on the assets of
14 corporations is in effect.

15 (c) An Act of the legislature to enact a state franchise tax
16 on the assets of corporations is not valid if on the date the tax
17 takes effect a state tax on the profits or net incomes of
18 corporations is in effect.

19 (d) This section does not affect the authority of a
20 political subdivision of this state to impose a tax otherwise
21 authorized by law.

22 SECTION 2. This proposed constitutional amendment shall be
23 submitted to the voters at an election to be held November 7, 1989.
24 The ballot shall be printed to provide for voting for or against

21

1 the proposition: "The constitutional amendment to prohibit the
2 state from imposing both a corporate income tax and a franchise tax
3 on corporate assets at the same time."

Culberson

By 

H.J.R. No. 37

A JOINT RESOLUTION

1 proposing a constitutional amendment to prohibit the imposition of
2 both a corporate income tax and a franchise tax on the assets of
3 corporations.

4 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Article VIII of the Texas Constitution is amended
6 by adding Section 24 to read as follows:

7 Sec. 24. (a) This state may not impose at the same time:

8 (1) a tax on the profits or net incomes of
9 corporations; and

10 (2) a franchise tax on the assets of corporations.

11 (b) An Act of the legislature to enact a state tax on the
12 profits or net incomes of corporations is not valid if on the date
13 the tax takes effect a state franchise tax on the assets of
14 corporations is in effect.

15 (c) An Act of the legislature to enact a state franchise tax
16 on the assets of corporations is not valid if on the date the tax
17 takes effect a state tax on the profits or net incomes of
18 corporations is in effect.

19 (d) This section does not affect the authority of a
20 political subdivision of this state to impose a tax otherwise
21 authorized by law.

22 SECTION 2. This proposed constitutional amendment shall be
23 submitted to the voters at an election to be held November 7, 1989.
24 The ballot shall be printed to provide for voting for or against

HOUSE COMMITTEE REPORT

82 APR 10 PM 9:36

REPRESENTATIVES

1st Printing

By Schlueter, et al.

H.J.R. No. 37

Substitute the following for H.J.R. No. 37:

By Schlueter

C.S.H.J.R. No. 37

A JOINT RESOLUTION

1 proposing a constitutional amendment to prohibit the imposition of
2 both a corporate or business income tax and a tax on the assets of
3 corporations or businesses.

4 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Article VIII of the Texas Constitution is amended
6 by adding Section 24 to read as follows:

7 Sec. 24. (a) Except as provided by Subsection (b) of this
8 section, this state may not impose at the same time:

9 (1) a tax on the profits, net incomes, or gross
10 incomes of corporations or businesses; and

11 (2) a franchise or other tax on the assets of
12 corporations or businesses.

13 (b) An Act of the legislature to impose a tax that
14 Subsection (a) of this section prohibits from being imposed at the
15 same time as a tax already in effect is not valid unless the Act to
16 impose the new tax, or another Act enacted on or before the date
17 the new tax takes effect, provides for the repeal of the tax
18 already in effect. The legislature may provide for the repeal of
19 the tax already in effect to occur not more than two years after
20 the date the new tax takes effect to provide for the orderly
21 transition from one tax to the other and to ensure that state
22 revenue needs are met during that transition.

23 (c) Subsection (a) of this section does not prohibit the
24 collection of or affect liability for unpaid taxes imposed under a

1 law that is no longer in effect and that Subsection (a) would
2 prohibit from being imposed at the same time as another tax that is
3 in effect.

4 (d) This section does not affect the authority of a
5 political subdivision of this state to impose a tax otherwise
6 authorized by law. This section does not prohibit the imposition
7 of an occupation tax on gross receipts.

8 SECTION 2. This proposed constitutional amendment shall be
9 submitted to the voters at an election to be held November 7, 1989.
10 The ballot shall be printed to provide for voting for or against
11 the proposition: "The constitutional amendment to prohibit the
12 state from imposing both a corporate or business income tax and a
13 franchise tax on corporate or business assets at the same time."

COMMITTEE REPORT

The Honorable Gib Lewis
Speaker of the House of Representatives

4/5/89
(date)

Sir:

We, your COMMITTEE ON WAYS AND MEANS,

to whom was referred H.J.R. 37 have had the same under consideration and beg to report
(measure)

back with the recommendation that it

- () do pass, without amendment.
- () do pass, with amendment(s).
- (x) do pass and be not printed; a Complete Committee Substitute is recommended in lieu of the original measure.

A fiscal note was requested. (x)yes () no An actuarial analysis was requested. () yes (x)no

An author's fiscal statement was requested. () yes (x)no

A criminal justice policy impact statement was prepared. () yes (x)no

A water development policy impact statement was requested. () yes (x)no

() The Committee recommends that this measure be sent to the Committee on Local and Consent Calendars for placement on the () Local, () Consent, or () Resolutions Calendar.

This measure (x)proposes new law. (x)amends existing law.

House Sponsor of Senate Measure _____

The measure was reported from Committee by the following vote:

	AYE	NAY	PNV	ABSENT
Hury, Ch.	✓			
Luna, V.C.	✓			
Hollowell, C.B.O.	✓			
Berlanga	✓			
Craddick	✓			
Heflin	✓			
Morales				✓
Schlueter	✓			
Seidlits	✓			
Stiles				✓
Williamson				✓
Wilson	✓			
Wolens	✓			

Total
10 aye
0 nay
0 present, not voting
3 absent

[Signature]
CHAIRMAN
[Signature]
COMMITTEE COORDINATOR

BILL ANALYSIS

BACKGROUND

Currently there is not a corporate income tax in Texas. A corporate income tax is one which places a tax on the profits or net income of a corporation. There is, however, a franchise tax on the assets of corporations in Texas which has been effect since 1907. The rate assessed on businesses in Texas is currently \$6.70 per \$1,000 of taxable value and is scheduled to drop to \$5.25 per \$1,000 in 1990. In fiscal year 1988, franchise tax collections totaled \$932.6 million.

PURPOSE

This measure proposes a constitution amendment which would prohibit the State from imposing a tax on the profits, net income, or gross income of corporations or businesses and, at the same time, levying a corporate or business franchise tax.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Article VIII of the Texas Constitution by adding Section 24.

Section 24. (a) Specifies the two types of business taxes the state cannot have in effect at the same time, except as provided by Subsection (b).

(b) Prohibits the simultaneous imposition of the two types of business taxes listed in Subsection (a), unless the Act to impose the new tax or another Act enacted on or before the new tax takes effect provides for the repeal of the existing tax; authorizes the legislature to provide for the repeal of the existing tax to occur not more than two years after the new tax takes effect to provide for an orderly transition and adequate revenue during the transition.

(c) Specifies that Subsection (a) does not prohibit the collection of or affect liability for unpaid taxes imposed under a law no longer in effect and that Subsection (a) would prohibit from being imposed at the same time another tax is in effect.

(d) Specifies that the authority of political subdivisions to impose other taxes authorized by law is not affected by this section; specifies that the imposition of an occupation tax on gross receipts is not prohibited.

SECTION 2. Requires submission to the voters for approval on November 7, 1989; specifies ballot language.

RULEMAKING AUTHORITY

It is the Committee's opinion that this measure does not grant rulemaking authority to any state officer, agency, department, or institution.

COMPARISON OF ORIGINAL BILL TO SUBSTITUTE

H.J.R. 37 prohibits the State from imposing a corporate net income tax and a corporate franchise tax at the same time. C.S.H.J.R. 37 prohibits the State from imposing a tax on the profits, net income, or gross income of corporations and businesses and, at the same time, levying a corporate or business franchise tax. C.S.H.J.R. 37 does allow two taxes to be in effect at the same time if one is to be repealed to provide a transition period whereby revenue needs will be met. C.S.H.J.R.

C.S.H.J.R. 37
H.J.R. 37

Schlueter
Schlueter, *et al.*

37 provides that collection of and liability for unpaid taxes is not affected by the repeal of the tax. C.S.H.J.R. 37 does not prohibit the imposition of an occupation tax on gross receipts.

SUMMARY OF COMMITTEE ACTION

Public notice was posted in accordance to the rules and a public hearing was held on February 15, 1989. Mr. Robert Stluka, representing the Texas Chapter, National Federation of Independent Business, testified in support of H.J.R. 37. Mr. Kevin Sheeran, representing the nearly 10,000 grocery and convenience store members of the Texas Retail Grocers Assn., registered in support. The following testified in opposition to H.J.R. 37: Ms. Jan Albers, representing the League of Women Voters of Texas; and Mr. Philip L. Wahlberg, representing Texas Impact and the Texas Conference of Churches. On February, 15, 1989, the committee left H.J.R. 37 pending.

On April 5, 1989, the full committee voted to report H.J.R. 37 to the House as substituted with the recommendation that it do pass by a record vote of 10 ayes, 0 nays, with 3 absent.

Ways and Means Committee
LVR

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE

April 6, 1989

TO: Honorable James F. Hury, Jr., Chair
Committee on Ways and Means
House of Representatives
Austin, Texas

In Re: Committee Substitute for
House Joint Resolution
No. 37

FROM: Jim Oliver, Director

In response to your request for a Fiscal Note on Committee Substitute for House Joint Resolution No. 37 (proposing a constitutional amendment to prohibit the imposition of both a corporate or business income tax and a tax on the assets of corporations or businesses) this office has determined the following:

The resolution proposes a constitutional amendment which, if adopted, would prohibit the State from imposing a tax on the profits, net income, or gross income of corporations or businesses and, at the same time, levying a corporate or business franchise tax.

The prohibition would not prevent the imposition of an occupations tax on gross receipts.

The amendment would not affect the authority of political subdivisions to impose a tax otherwise authorized by law. The proposed amendment would be submitted to the voters on November 7, 1989.

The cost of publication of the resolution to the State is estimated to be \$60,000.

The fiscal implication to the State cannot be determined. No fiscal implication to units of local government is anticipated.

Criminal Justice Policy Impact Statement: No change in the sanctions applicable to adults convicted of felony crimes is anticipated.

Source: Comptroller of Public Accounts;
LBB Staff: JO, JWH, AL, RS, PA

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE

February 9, 1989

TO: Honorable James F. Hury, Jr., Chair
Committee on Ways and Means
House of Representatives
Austin, Texas

In Re: House Joint
Resolution No. 37
By: Schlueter

FROM: Jim Oliver, Director

In response to your request for a Fiscal Note on House Joint Resolution No. 37 (proposing a constitutional amendment to prohibit the imposition of both a corporate income tax and a franchise tax on the assets of corporations) this office has determined the following:

The resolution proposes a constitutional amendment which, if adopted, would prohibit the State from imposing a corporate net income tax and a corporate franchise tax at the same time.

The proposed amendment would be submitted to the voters on November 7, 1989.

The cost of publication of the resolution to the State is estimated to be \$60,000.

The fiscal implication to the State cannot be determined. No fiscal implication to units of local government is anticipated.

Source: Comptroller of Public Accounts;
LBB Staff: JO, JWH, AL, RS, CKM

HOUSE JOINT RESOLUTION

proposing a constitutional amendment to prohibit the imposition of both a corporate income tax and a franchise tax on the assets of corporations.

JAN 19 1989

1. Filed with the Chief Clerk.

FEB 2 1989

2. Read first time and referred to Committee on

Ways & MeansAPR 5 19893. Reported favorably ~~(as amended)~~
(as substituted) and sent to Printer at2:30 pm
APR 10 1989APR 10 1989

4. Printed and distributed at

8:36 pmAPR 11 1989

5. Sent to Committee on Calendars at

3:30 pm

6. Read second time (amended) and (finally) passed to Third Reading by a Record Vote of _____ yeas, _____ nays, _____ present, not voting.

7. Motion to reconsider and table the vote by which H.J.R. _____ was ordered engrossed prevailed (failed) by (Non-Record Vote) (Record Vote of _____ yeas, _____ nays, _____ present, not voting).

8. Read third time (amended) and finally adopted (failed of adoption) by a Record Vote of _____ yeas, _____ nays, _____ present, not voting.

9. Caption ordered amended to conform to body of resolution.

10. Motion to reconsider and table the vote by which H.J.R. _____ was finally adopted prevailed (failed) by a (Non-Record Vote) Record Vote of _____ yeas, _____ nays, and _____ present, not voting).

11. Ordered Engrossed at _____

12. Engrossed.

13. Returned to Chief Clerk at _____

14. Sent to the Senate.

Chief Clerk of the House

15. Received from the House

16. Read, referred to Committee on _____

17. Reported favorably

18. Reported adversely, with favorable Committee Substitute; Committee Substitute read first time.

19. Ordered not printed.

20. Regular order of business suspended by

(a viva voce vote.)

(_____ yeas, _____ nays.)

21. To permit consideration, reading and passage, Senate and Constitutional Rules suspended by vote of _____ yeas, _____ nays.

22. Read second time

passed to third reading by:

(a viva voce vote.)

(_____ yeas, _____ nays.)

_____ 23. Caption ordered amended to conform to body of bill.

_____ 24. Senate and Constitutional 3-Day Rules suspended by vote of _____ yeas,
_____ nays to place bill on third reading and final passage.

_____ 25. Read third time and passed by
(a viva voce vote.)
(_____ yeas, _____ nays.)

OTHER ACTION:

OTHER ACTION:

Secretary of the Senate

_____ 26. Returned to the House.

_____ 27. Received from the Senate (with amendments.)
(as substituted.)

_____ 28. House (Concurred) (Refused to Concur) in Senate (Amendments) by a (Non-Record
(Substitute) Vote) (Record Vote of _____ yeas, _____ nays, _____ present,
not voting).

_____ 29. Conference Committee Ordered.

_____ 30. Conference Committee Report Adopted (Rejected) by a (Non-Record Vote) (Record
Vote of _____ yeas, _____ nays, and _____ present, not voting).

_____ 31. Ordered Enrolled at _____

RECEIVED
HON. J. J. HARRIS

98:3:12 01 JUN 53